

**HOFLAND & TOMSHECK**

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SEBASTIAN OCADIZ-CASTRO,

Defendant

Case No.: 2:20-cr-00156-RFB-DJA-4

AMENDED MOTION TO MODIFY  
CONDITIONS OF PRETRIAL RELEASE

COMES NOW Defendant, SEBASTIAN OCADIZ-CASTRO, by and through his attorney of record, Joshua Tomsheck of the law firm of Hofland & Tomsheck and hereby moves hereby moves this Court for an Order modifying conditions of pre-trial release.

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**I. RELEVANT FACTS AND PROCEDURAL HISTORY**

Mr. Ocadiz-Castro is accused of one (1) Count of Conspiracy to Distribute a Controlled Substances, in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(A)(viii), and 846; one (1) Count of Conspiracy Dealing in Firearms Without a License, in violation of Title 18, United States Code, Section 371; two (2) Counts of Distribution of a Controlled Substance and Aiding and Abetting, in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(B)(viii), and Title 18, United States Code, Section 2; and one (1) Count of Distribution of a Controlled Substance and Aiding and Abetting, in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2. There are also two forfeiture allegations against Mr. Ocadiz-Castro, Allegations 1 and Allegation 3. Mr. Ocadiz-Castro is one of thirteen defendants named in this matter.

An indictment was filed against Mr. Ocadiz-Castro on July 8, 2020. On July 15, 2020 Mr. Ocadiz-Castro was arraigned and a detention hearing was held. At the detention hearing, he was released on a personal recognizance bond and conditions were fashioned which would ensure the safety of the community and his appearance at future court hearings. Pursuant to this bond, Mr. Ocadiz-Castro was placed on certain conditions of pretrial release, fully detailed in Document 172 and including the following:

1. The defendant was placed into the custody of Giovanna Ocadiz-Castro, Maria Castro, and Juan Ocadiz
2. The defendant shall report to the United States Pretrial Services Office
3. The defendant shall surrender any passport and/or passport card to U.S. Pretrial Services or the supervising officer
4. The defendant shall not obtain a passport or passport card
5. The defendant's travelling is restricted to Clark County, Nevada
6. The defendant shall maintain residence at the address of a third-party custodian
7. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon

- 1 8. The defendant shall refrain from the use or unlawful possession of a narcotic drug or  
2 other controlled substance defined in 21 U.S.C. § 802 unless prescribed by a licensed  
3 medical practitioner. This includes Marijuana and/or any item containing THC
- 4 9. The defendant shall submit to any testing required by Pretrial Services or the  
5 supervising officer to determine whether the defendant is using a prohibited  
6 substance
- 7 10. The defendant shall participate in the Home Detention monitoring program and is  
8 thereby restricted to his residence at all times except for employment; education;  
9 religious services; medical, substance abuse, or mental health treatment; attorney  
10 visits; court appearances; court-ordered obligations; or other activities preapproved  
11 by Pretrial Services or the supervising officer
- 12 11. The defendant shall submit to Global Positioning Satellite (GPS) monitoring
- 13 12. The defendant shall not tamper with, damage, or remove the monitoring device and  
14 shall charge the said equipment according to the instructions provided by Pretrial  
15 Services or the supervising officer.
- 16 13. The defendant shall have no contact with codefendants during the pendency of this  
17 litigation. Any such contact would have to be approved by the Pretrial Services  
18 Officer
- 19 14. The defendant shall have a ring monitoring device installed to his residence at all  
20 entry points with installation to be confirmed by Pretrial Services prior to release. The  
21 defendant must keep a log of all visitors coming and going to the residence which is  
22 to be submitted to pretrial services
- 23 15. The third-party custodian must accompany the defendant at all times and to all  
24 approved appointments

25 Since the time of this Court's Order regarding the conditions of pretrial release, Mr.  
Ocadiz-Castro has remained trouble free and has had no instances of violations of his  
conditions. Mr. Ocadiz-Castro has complied with all directives, including the submission to  
constant GPS monitoring and the requirement that he is accompanied by his third-party  
custodian at all times and to all approved appointments.

As this Court is aware, Mr. Ocadiz-Castro has lived his entire life in Las Vegas. He is  
a proud Durango High School alumnus and has been motivated by his entrepreneurial spirit  
to take steps towards opening his own car detailing business in January 2020, when he was  
just 19 years old. While other young adults may veer from a career path for any number of  
distractions, Mr. Ocadiz-Castro remained focused and accomplished business feats that

1 many more-established adults have been unable to do. These feats include applying for a  
2 personal loan, acquiring the requisite equipment for his business, managing promotional  
3 social media accounts, and building his clientele. Mr. Ocadiz-Castro filed for and received a  
4 Nevada State Business License on May 28, 2021 for his business, "Dr Sebbie Auto Detail,  
5 LLC." (see Exhibit "A"). Mr. Ocadiz-Castro demonstrated his entrepreneurship by selling his  
6 car for cash to invest into his business. Further, Mr. Ocadiz-Castro's passion for business  
7 dates back to his early teen years when he sold his collection of Air Jordan sneakers online.  
8 Additionally, prior to starting his own business, Mr. Ocadiz-Castro held steady employment  
9 as a server at both IHOP and Denny's since he was of the eligible age to work at the  
10 respective restaurants.  
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12         Simply put, Mr. Ocadiz-Castro wants to work. Ever since he was a teenager, Mr.  
13 Ocadiz-Castro has championed various obstacles in pursuit of his career aspirations. Not  
14 only did he maintain employment while finishing his high school diploma, he also overcame  
15 the setbacks presented by the COVID-19 pandemic to start his own business. This young  
16 man's demonstrated commitment to his future is frustrated by the pretrial conditions  
17 implemented in his bond. Mr. Ocadiz-Castro is currently unable to work because of his GPS  
18 monitoring and because his third-party custodian must accompany him everywhere. This  
19 inability to work not only poses substantial economic hardships to Mr. Ocadiz-Castro and  
20 his family, but also stifles the entrepreneurial resilience that is uncommon for a man his age.  
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## 22         **II.     LEGAL ARGUMENT**

23         Pursuant to 18 U.S.C.A. § 3142(c), the conditions of pretrial release must be the "...least  
24 restrictive further condition, or combination of conditions ... that will reasonably assure the  
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1 appearance of the person as required and the safety of any other person and the community.”  
2 Bail conditions are unconstitutionally excessive if they impose restraints that are more than  
3 necessary to achieve the government’s interest [,] ... preventing risk of flight and danger to  
4 society or children. *U.S. v. Karper*, 847 F. Supp.2d 350, 363 (N.D. N. Y. 2011) (citing *U.S. v.*  
5 *Poluzzi*, 697 F. Supp.2d 381, 386 (E.D. N.Y. 2010); see also *U.S. v. Arzberger*, 592 F. Supp.2d  
6 590, 605 (citing *Stack v. Boyle*, 342 U.S. 1, 72 S. Ct. 1, 96 L.Ed. 3 (1951)). The mere fact that a  
7 person is charged with a crime does not “give rise to any interference that he is more likely  
8 than any other citizen to commit a crime . . .” *U.S. v. Scott*, 450 F.3d 863, 874 (9th Cir. 2006).  
9 The accused in this county are innocent until proven guilty. *Id.*

11 Here, Mr. Ocadiz-Castro has complied with the Order of this Court, including the  
12 imposition of a GPS Monitoring System and the requirement that his third-party custodian  
13 accompany him at all times. Of these, the GPS Monitoring System is by far the most  
14 restrictive and has consistently impacted his ability to have and maintain employment,  
15 thereby interfering with his ability to earn an income necessary to help support himself and  
16 his household. The GPS requirement is more restrictive than necessary to ensure Mr. Ocadiz-  
17 Castro’s compliance with pretrial conditions and likelihood to appear in court. The current  
18 bail conditions would constrict Mr. Ocadiz-Castro from working until, at the earliest, his  
19 next court date in late September 2021. Instead, the removal of the GPS Monitoring System  
20 in favor of implementing a curfew would ensure Mr. Ocadiz-Castro’s compliance with  
21 pretrial conditions without restricting his ability to work. The Undersigned Counsel has  
22 spoken with Mr. Ocadiz-Castro’s Pretrial Services officer, Officer Emily McKillip. Officer  
23 McKillip *has no objection to these modifications.*  
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1           The conditions of Mr. Ocadiz-Castro's pretrial release which would remain in place  
2 should this request be granted are more than sufficient to safeguard against any purported  
3 risk to the community at large or risk of nonappearance. Mr. Ocadiz-Castro is not a flight  
4 risk and has all ties to Las Vegas. Further, Mr. Ocadiz-Castro has a remarkably supportive  
5 family who have demonstrated a commitment to complying with this Court's orders. Mr.  
6 Ocadiz-Castro has not violated any conditions of his pretrial release and will continue to be  
7 on his best behavior if given these two modifications. The conditions of his release requiring  
8 a GPS Monitoring System at all times and that his third-party custodian accompany him at  
9 all times are more restrictive than necessary to reasonably assure the appearance of Mr.  
10 Ocadiz-Castro and the safety of the community. Further, these restrictions also impact Mr.  
11 Ocadiz-Castro professionally. As such, Mr. Ocadiz-Castro respectfully requests (1) that the  
12 requirement that he submit to GPS Monitoring be removed in favor of an imposition of a  
13 curfew and (2) the requirement that a third-party custodian must accompany him at all times  
14 and to all approved appointments be removed pending trial and (3) that all other conditions  
15 of pretrial release remain.  
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